

IN RE: PETITION FOR ZONING VARIANCE
SS Maple Avenue, 308' W of
Cedar Avenue
Lot 92 Maple Avenue
15th Election District
5th Councilmanic District
Charles Clifford Bergquist, et ux
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-293-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners herein request a variance from Section 1802.3.3 to permit 2 lot widths of 43 feet and 50 feet in lieu of the minimum 55 feet, as more particularly described on Petitioner's Exhibit 1.

The Petitioner, Charles C. Bergquist, appeared, testified and was represented by A. J. Szczerbicki, Esquire, appearing as Protestants were Willie Russell, representative of the Goodwood Improvement Association, Anna Russell and Vernon Lynch.

Testimony and evidence indicated that the subject property, known as lot 92 Maple Avenue, consists of 1.75 acres +/-, zoned D.R. 5.5, and is currently unimproved.

The Petitioner testified that he is desirous of subdividing the aforementioned lot 92 and constructing a ranch style house on the northwest side of the lot and a 2 1/2 story house on the northeast side. He testified that approximately 51% of the subject lot consists of wetlands, which require locating the subject houses near the front of lot 92, as indicated on Petitioner's Exhibit No. 2. The Petitioner testified that he intends to reside in one of the two proposed homes.

Testimony and evidence indicated that lot 92 is approximately 92 feet wide where it fronts Maple Avenue.

Counsel for the Petitioner testified that should the requested variance relief be denied, the Petitioner would suffer an undue hardship and practical difficulty.

Mr. Willie Russell, appearing on behalf of the Goodwood Improvement Association, testified that the Association is concerned that Petitioner's proposal will result in an overcrowded lot that will promote overcrowding in their neighborhood. He testified that the vast majority of lots in this community, which are similar in size to the one in question, support only one dwelling, and that the Petitioner's request, if granted, would be contrary to the esthetic integrity of this community. Mr. Russell also indicated that he is concerned for the safety of the neighborhood children in view of the increased traffic in this community.

Mrs. Anna Russell and Mr. Vernon Lynch testified as Protestants and concurred with the testimony of Mr. Willie Russell.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the petitioner and his property. *McLean v. Soley*, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

In reviewing the evidence, there is insufficient evidence to allow a finding that the Petitioner would experience practical difficulty or unreasonable hardship if the requested variance was denied. The testimony presented by the Petitioner was in support of a matter of a preference rather than of the necessity for the variance. The Petitioner has failed to show that compliance would unreasonably prevent the use of the property or be unnecessarily burdensome. Therefore, the variance requested must be denied.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of March, 1990 that the Petition for Zoning Variance to permit 2 lot widths of 43 feet and 50 feet in lieu of the minimum 55 feet, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED.

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

JRH/mm
cc: Peoples Counsel

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

March 1990



Dennis F. Rasmussen
County Executive

A. J. Szczerbicki, Esquire
409 Washington Avenue
Suite 802
Towson, Maryland 21204

RE: Petition for Zoning Variance
Case No. 90-293-A
Charles C. Bergquist, et al., Petitioners

Dear Mr. Szczerbicki:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been denied in accordance with the attached order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
J. Robert Haines
Zoning Commissioner

JRH:mm
encl.
cc: Peoples Counsel
cc: Mr. Willie Russell
Goodwood Improvement Association
1316 Goodwood Avenue
Baltimore, Maryland 21221

PETITION FOR ZONING VARIANCE CRITICAL AREA

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-293-A
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.3 To permit 2 lot widths of 43 feet and 50 feet in lieu of the minimum 55 feet.

- (1) Hardship Due to Environmental 100 Foot Buffer Erosion
- (2) Need 55 Feet Frontage to Build - Present Footer 45.90 due to Subdivision
- (3) Variance needed for windows down between houses
- (4) Variance Because requirement is 10 feet off outside Building Lines - would like to have 5 feet

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/we do solemnly declare and affirm under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:
(Type or Print Name)
Signature
Address
City and State

Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
(Type or Print Name)
Signature
Address
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Charles Clifford Bergquist
3727 White River Rd.
BALTO. MD. 21220
335-4987

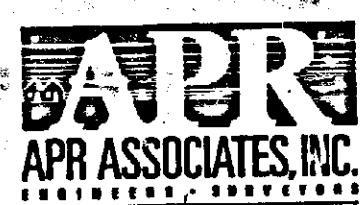
Attorney's Telephone No.:
Address
City and State

Name
Charles Clifford Bergquist
2107 W. Bush Ave. 285-5531

ORDERED BY The Zoning Commissioner of Baltimore County, this 8th day of December, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commissioner of Baltimore County in Towson, Baltimore County, on the 18th day of January, 1990, at 2 o'clock P.M.

J. Robert Haines
Zoning Commissioner of Baltimore County.

CRITICAL AREA
90-293-A



DESCRIPTION OF PROPERTY
LOT NO. 92 GOODWOOD FARMS
15TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point on the Southerly side of Maple Avenue, 40 feet wide, at a distance of 288 feet measured in the Westerly direction from its intersection with the Westerly side of Cedar Avenue, 40 feet wide, thence leaving Maple Avenue and binding on the outlines of Lot 92 Goodwood Farms, as recorded in the Land Records of Baltimore County in Plat Book No. 9, Folio 46, the four following courses and distances: (1) South 09 degrees 21 minutes 51 seconds West 574.80 feet, (2) North 48 degrees 15 minutes 00 seconds West 150.00 feet, (3) North 16 degrees 15 minutes 00 seconds West 99.00 feet, (4) North 20 degrees 01 minutes 55 seconds East 424.53 feet to intersect the Southerly side of Maple Avenue thence binding thereon Easterly by a line curving to the left with a radius of 483.90 feet the distance of 91.81 feet and a chord of South 73 degrees 06 minutes 47 seconds East 91.67 feet to the place of beginning. Containing 1.6514 acres of land more or less.

08/01/89

5215 Harford Road
Baltimore, Maryland 21214
(301) 444-4228

7427 Harford Road
Baltimore, Maryland 21214
(301) 444-4312

A. J. SZCZERBICKI
ATTORNEY AT LAW
SUITE 802
409 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(301) 887-0058

RECEIVED
JAN 2 1990
ZONING OFFICE

December 28, 1989

Baltimore County Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Re: Petition for Zoning Variance
Case No.: 90-293-A

Dear Sir:

Please note that I have been retained by Mr. Charles Bergquist to represent him in connection with the above captioned petition for a zoning variance. Please forward all notices to the undersigned at the address shown above.

Please call if you have any questions.

Sincerely,
A. J. Szczerbicki

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1574
Posted for: Variance
Petitioner: Charles Clifford Bergquist, et al.
Location of property: 50 Maple Ave., 288' W of Cedar Ave.
Lot # 92, Maple Ave.
Location of Sign: Facing Maple Ave. across 10 ft. zone buffer
Remarks: for Petitioner
Posted by: M. Hays
Number of Signs: 1
Date of return: 1/7/90

CERTIFICATE OF PUBLICATION

TOWSON, MD. December 28, 1989
THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Dec 26, 19 89
S. Zeke Olsen
Publisher

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(410) 887-3353
J. Robert Haines
Zoning Commissioner

DATE 1-5-90



Dennis F. Rasmussen
County Executive

Mr. Charles Clifford Bergquist
3727 White Pine Road, Apt. C
Baltimore, Maryland 21220

Re: Petition for Zoning Variance
CASE NUMBER: 90-293-A
85 Maple Avenue, 300' W of c/l of 2nd Avenue
Lot 92 (Maple Avenue)
15th Election District - 5th Councilmanic
Petitioner(s): Charles Clifford Bergquist, et al.
HEARING: THURSDAY, JANUARY 18, 1990 at 2:00 p.m.

Dear Mr. Bergquist:

Please be advised that \$122.28 for advertising and posting of the above captioned property.

Baltimore County
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Account R-001-6150

receipt

No 1042

90-293-A

1/18/90

PUBLIC HEARING FEES

POSTING SIGNS / ADVERTISING 1

QTY

PRICE

\$122.28

TOTAL: \$122.28

LAST NAME OF OWNER: BERGQUIST

Please make checks payable to: Baltimore County

Customer Validation

Phone 887-3391 to confirm
hearing date.)

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(410) 887-3353
J. Robert Haines
Zoning Commissioner

December 12, 1989



Dennis F. Rasmussen
County Executive

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 90-293-A
85 Maple Avenue, 300' W of c/l of Cedar Avenue
Lot 92 Maple Avenue
15th Election District - 5th Councilmanic
Petitioner(s): Charles Clifford Bergquist, et al.
HEARING: THURSDAY, JANUARY 18, 1990 at 2:00 p.m.

Variance to permit 2 lot widths of 48 ft. and 50 ft. in lieu of the minimum 55 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, maintain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

(If "PHASE II" of the "SNOW EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the hearing will be postponed. In the event of snow, telephone 887-3391 to confirm hearing date.)

J. Robert Haines

J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Petitioners

October 16, 1989

Mr. Charles C. Bergquist
3727 White Pine Road, Apt. C
Baltimore, Maryland 21220

Re: Item #46
Petition for Zoning Variance

Dear Mr. Bergquist:

On August 23, 1989, The Chesapeake Bay Critical Area Program requested an extension for the review of the above captioned matter. Such was needed as you had yet to supply them with a Forest Establishment Plan. I have been advised that they are not at present in receipt of the needed plan.

Please be advised that this office is unable to schedule a hearing on the zoning matter, until we are in receipt of the review comments from the Critical Area Program.

Therefore, kindly contact Ms. Sanford at 887-3980 regarding the Forest Establishment Plan at your earliest convenience.

Very truly yours,

G. G. Stephens
(301) 887-3391

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

90-293-A

TO: J. Robert Haines
Zoning Commissioner

DATE: August 17, 1989

FROM: David C. Flowers

SUBJECT: Zoning Hearing - Item 46

The Chesapeake Bay Critical Area Program requests an extension for the review of the petition for a Zoning Variance for Mr. Charles C. Bergquist. A Forest Establishment Plan is necessary to complete a Critical Area Findings for this property. For further information contact Ms. Nancy Sanford at 887-3980.

David C. Flowers
David C. Flowers, Coordinator
Chesapeake Bay Critical Area Program

DCF:SSB:ju

CC: Janice Outen

RECEIVED
AUG 23 1989

ZONING OFFICE

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Willie Russell, Rep. Goodwood Imp. Assoc.
Chris Russell
Vernon Lynch

1316 Goodwood Ave. Balto 21221
1317 Goodwood Ave. Balto 21221

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: December 29, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 46
Mr. Bergquist's Property
Chesapeake Bay Critical Area Findings

SITE LOCATION

The subject properties are both designated as lot 92 of Goodwood Farms on Maple Avenue. A minor subdivision of the lot is planned to follow the Zoning Variance request. The site is within the Chesapeake Bay Critical Area and is classified as a Limited Development Area (LDA).

APPLICANT'S NAME Mr. and Mrs. Charles C. Bergquist and
Mr. David Lee Bergquist.

APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3.B of the Baltimore County Zoning Regulations to permit 2 lot widths of 48' and 50' in lieu of the minimum 55'.

GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

PETITIONER(S) EXHIBIT (3)



Thank you for your letter to 1316 Goodwood Avenue
Baltimore, Maryland 21221
April 16, 1991

Mr. J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Re: Petition for Zoning Variance
Case No. 90-293-A

Charles C. Bergquist, et al. Petitioners

Dear Mr. Haines:

Enclosed please find a copy of a letter and a decision rendered by you on March 2, 1990 in the above captioned matter. The decision indicates that the Petition for a zoning variance on Lot 92 on Maple Avenue was denied. We are unaware of any appeals or further proceedings in this matter.

However, on said lot, two homes are presently being constructed. It appears that these homes are being constructed in violation of the zoning laws of Baltimore County.

We have been unsuccessful in getting any information through telephone inquiries. We would appreciate it if you would investigate this matter and advise us of the status.

GOODWOOD IMPROVEMENT ASSOCIATION
1428 Maple Avenue
Essex, Maryland 21221
William Carter - President
Phone No. 391-8336

PROTESTANT'S EXHIBIT 1

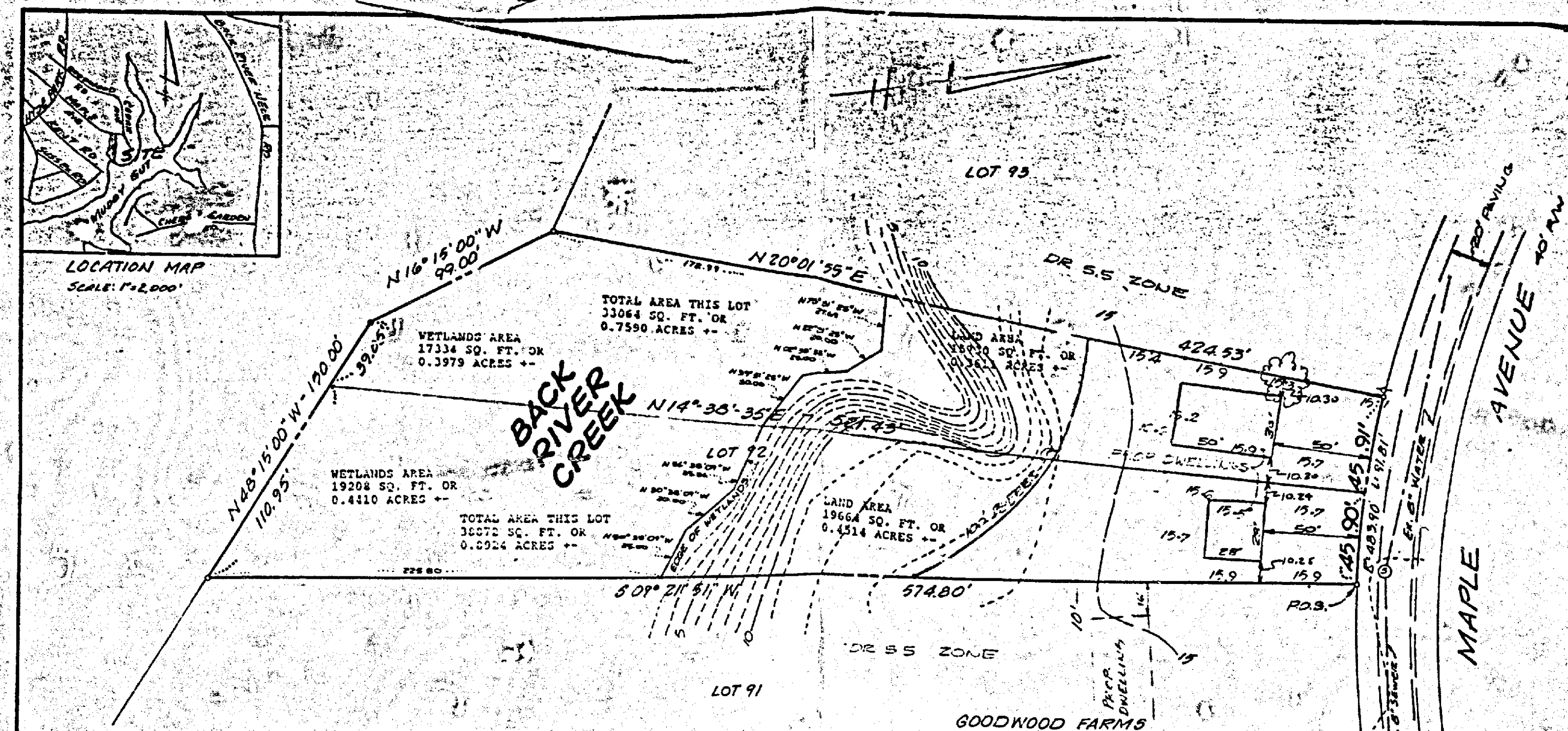
Zoning Commissioner
County Office Building
Room 1000
Towson, Maryland 21204

To Whom It May Concern:

As members and/or home-owners/ or buyers in the Goodwood Area, our signatures are to oppose the petition to rezone in case number 90-293A.

We respectfully request your denial in this rezoning case.

Name	Address	Phone No.
1. Charles Brooks	1403 Maple Ave	682-4292
2. Wilson Carter	1428 Maple Ave	391-8336
3. Mr. & Mrs. W. H. Upshur	1325 Maple Ave	686-6381
4. Joseph S. Yellon	1324 Maple Ave	574 5246
5. Bruce Yea	1333 Maple Ave	687.4363
6. Howard Hill	1322 MAPLE AVE	674 3378
7. Della Williams	1321 Maple Ave	3916321
8. Roger C. Field	1470 Maple Ave	891-6141
9. Walter Alt	819 Cedar Ave	686 1183
10. Edgar W. Alt	809 Cedar Ave	391-0114
11. Willie Russell	1816 Goodwood Ave	687-6622



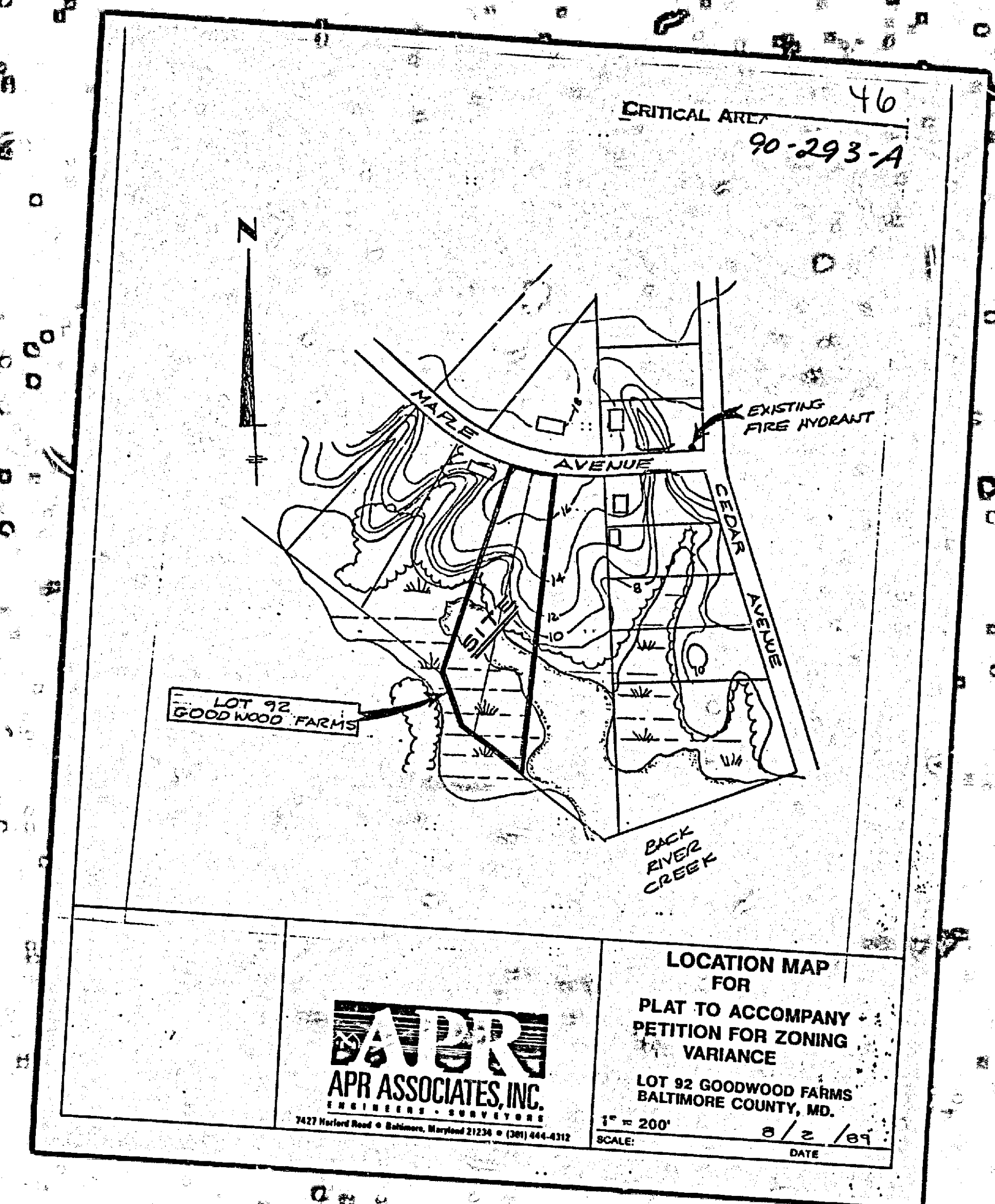
- NOTES
- 1.) EXISTING ZONING DR 5.5
 - 2.) OWNERS: CHARLES CLIFFORD BERQUIST AND SUSAN M. BERQUIST, HIS WIFE, AND DAVID LEE BERQUIST AND REBECCA LYNN BERQUIST, HIS WIFE AS RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN LITER 8061, PAGE 455
 - 3.) THE ABOVE SHOWN LANDS SHOWN AND DESIGNATED LOT NO. 92, PLAT NO. 2 OF GOODWOOD FARMS AND RECORDED IN THE LAND RECORDS OF BALTIMORE COUNTY IN PLAT BOOK NO. 9, FOLIO 46.

APPROVED:
DEPARTMENT OF ENVIRONMENTAL
PROTECTION & RESOURCE MANAGEMENT

DIRECTOR DATE

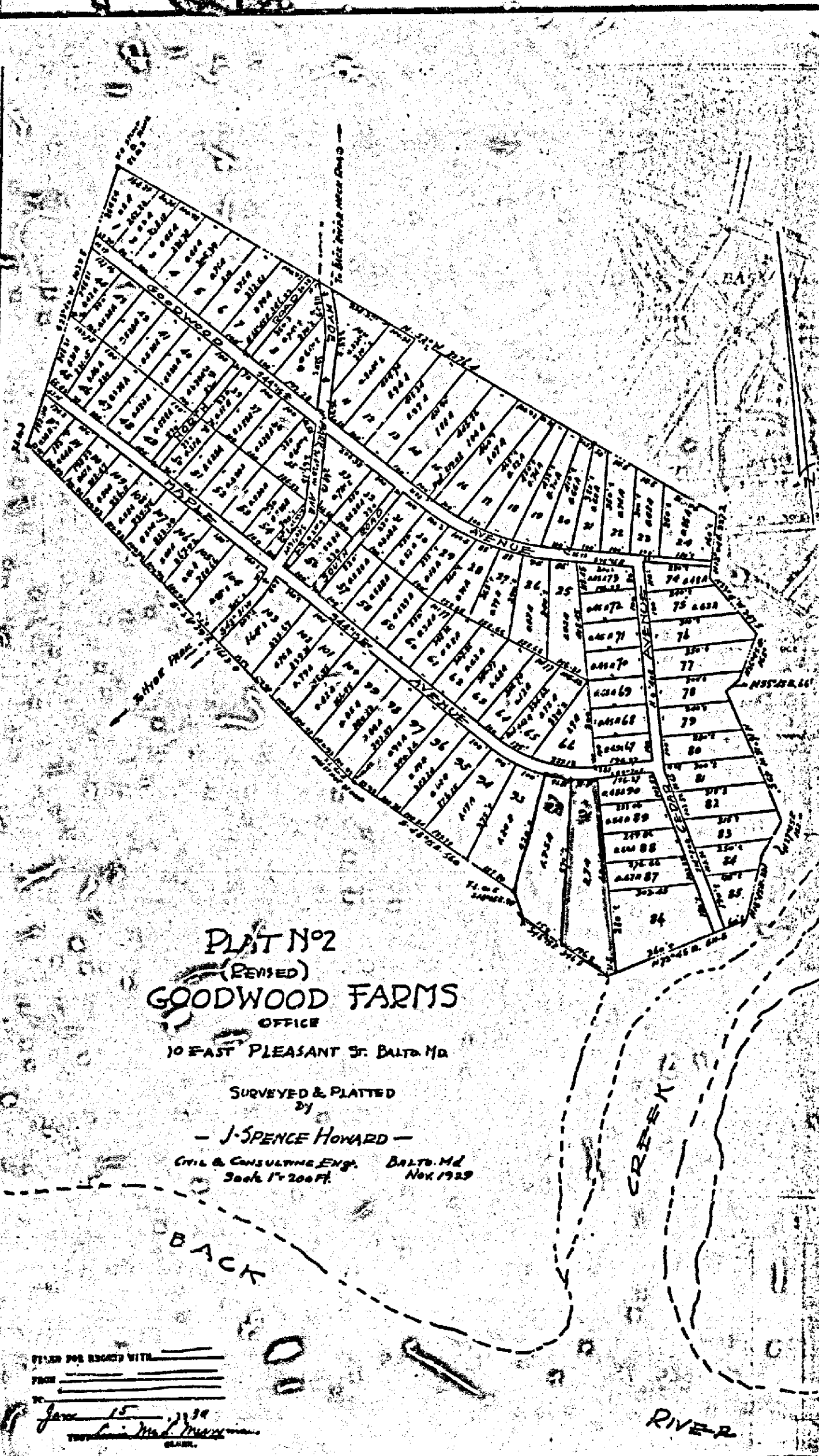
RESUBDIVISION
OF
LOT NO. 92
GOODWOOD FARMS

ELECTION DISTRICT NO. 15
BALTIMORE COUNTY, MD.
SCALE: 1" = 50' MARCH 21, 1991



LOCATION MAP
FOR
PLAT TO ACCOMPANY
PETITION FOR ZONING
VARIANCE

LOT 92 GOODWOOD FARMS
BALTIMORE COUNTY, MD.
SCALE: 1" = 200' DATE



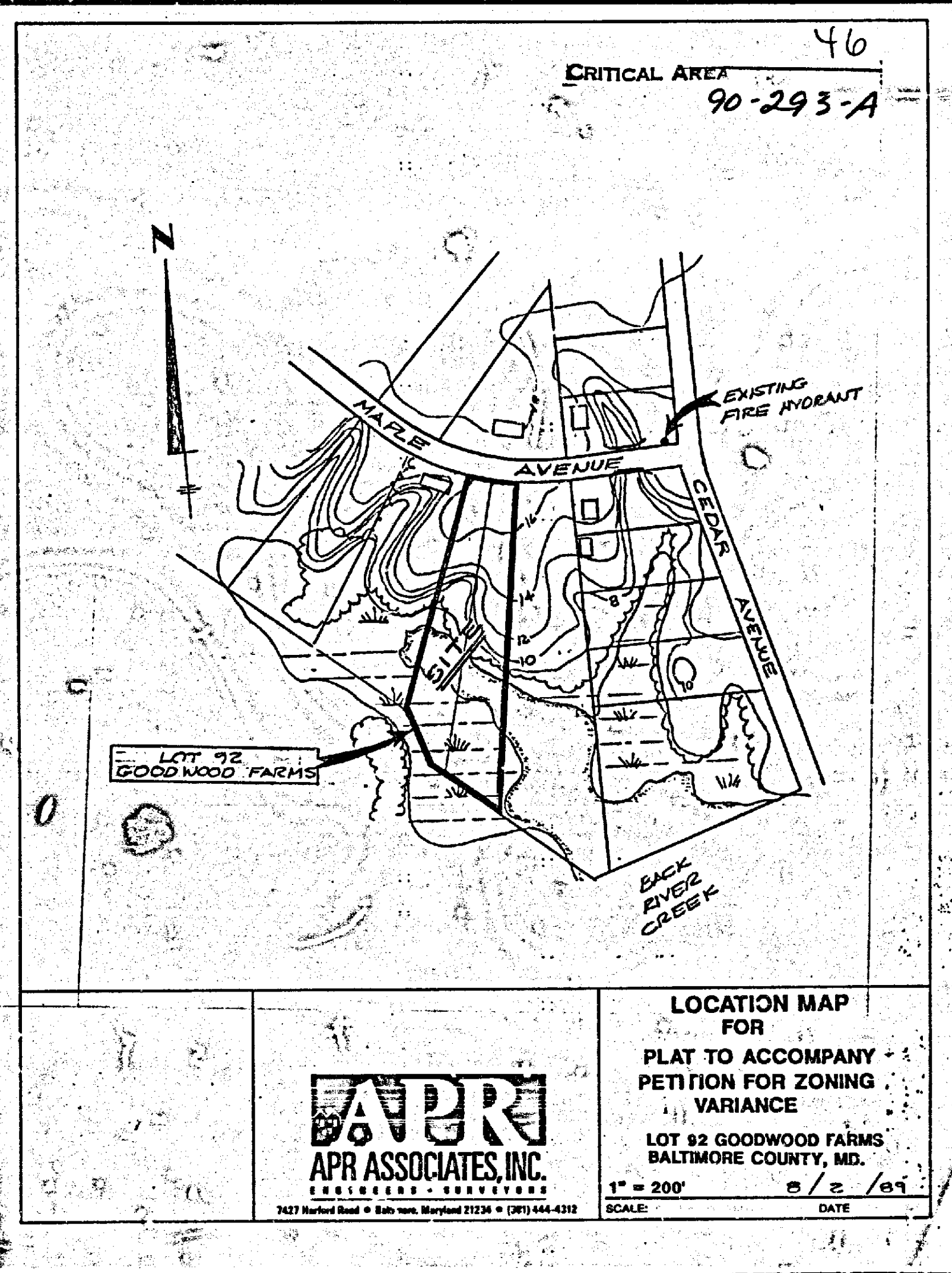
PLAT NO. 2
(PERMIT)
GOODWOOD FARMS
OFFICE

10 PART PLEASANT ST. BALTO. MD.

SURVEYED & PLATTED

BY

J. SPENCE HOWARD
CIVIL & CONSTRUCTION ENG. BALTO. MD.
2000 N. E. 100th St. Suite 100



LOCATION MAP
FOR
PLAT TO ACCOMPANY
PETITION FOR ZONING
VARIANCE

LOT 92 GOODWOOD FARMS
BALTIMORE COUNTY, MD.

SCALE: 1" = 200' DATE

Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning
111 West Chesapeake Avenue
Towson, MD 21204
May 28, 1991
887-3353

Mr. Willie Russell
Goodwood Improvement Association
1316 Goodwood Avenue
Baltimore, Maryland 21221

Dear Mr. Russell:

In response to your inquiry regarding the construction at Lot 92 Maple Road (1444 Maple Road), we have reviewed the permit applications and had the activity field checked by a zoning inspector.

The following was disclosed: Mr. Bergquist filed for a variance to create two buildable lots from Lot 92, Goodwood Farms. The variance was denied by the Zoning Commissioner's Order, dated March 2, 1990.

Mr. Bergquist applied for and was issued Permit Number B-069072 on August 30, 1990 to build one single family house and on September 14, 1990 to build one single family house on a lot subdivided by Deed. This subdivision was legally processed. The permits were approved because they comply with the Baltimore County Zoning Regulations (BCZR). The variance was to allow narrower than permitted side yards so he could move the houses closer to the road. In their present locations, the building meet all on line requirements and are so permitted.

The next lot to Mr. Bergquist, Lot 91, owned by Mr. Hudkins had been issued permit number B-041529 on January 4, 1990 to build one single family dwelling on his full lot.

A field check of these properties indicates that only these three houses have been legally constructed with respect to our rules regarding setbacks and property width at building line.

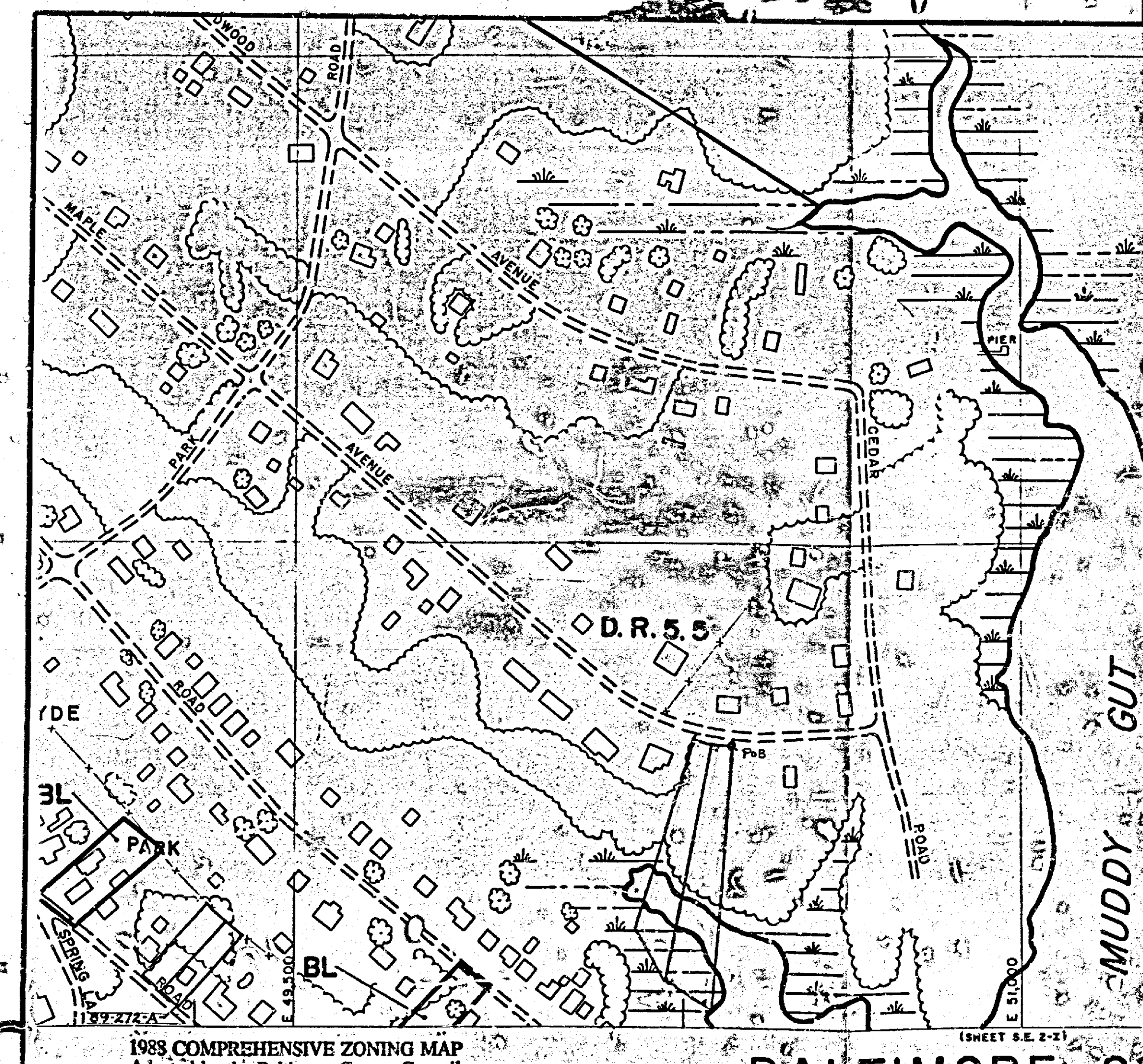
If you have any further questions on this matter, please contact us at 887-3391.

Very truly yours,

James E. Dyer
Zoning Supervisor

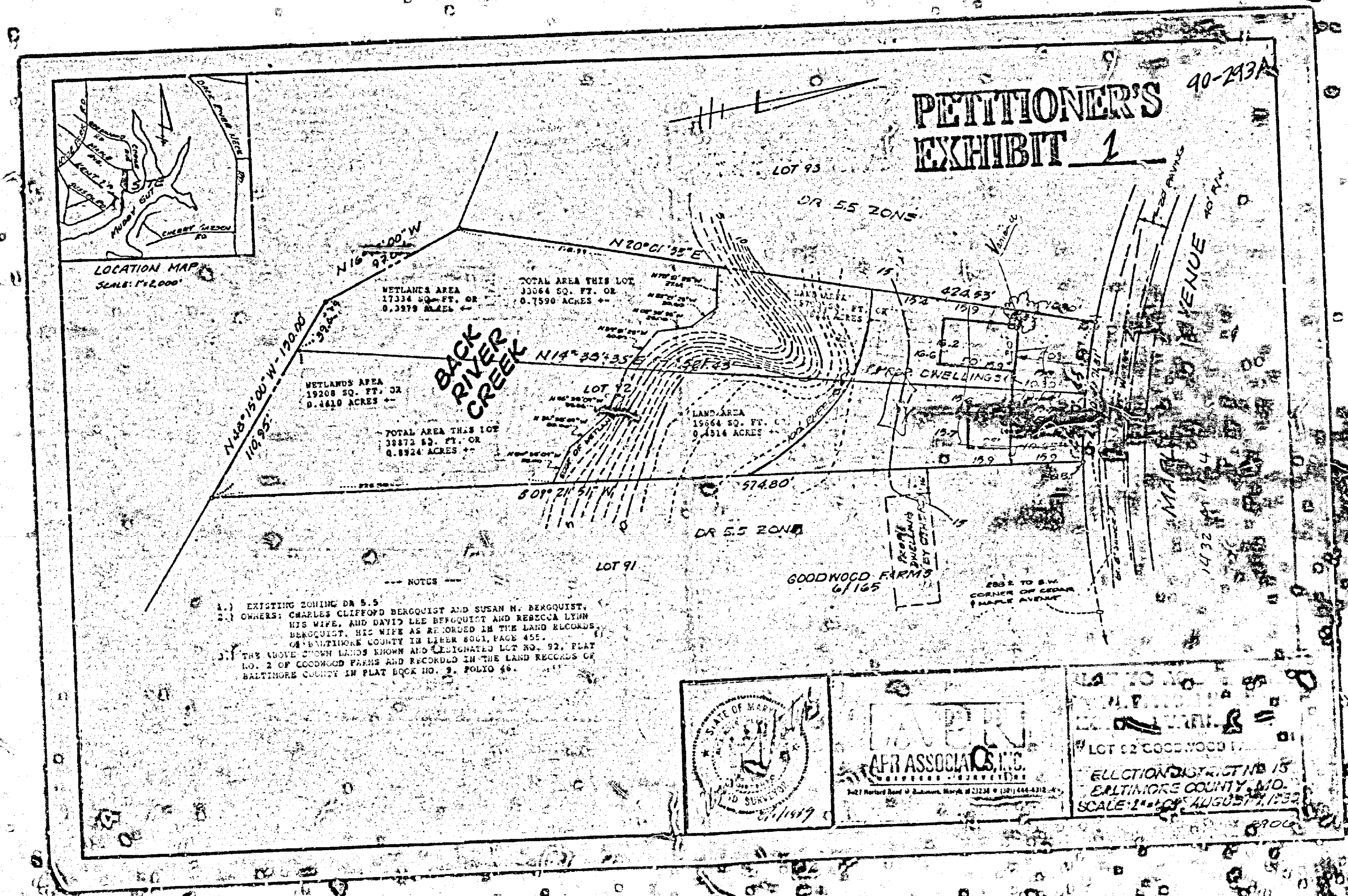
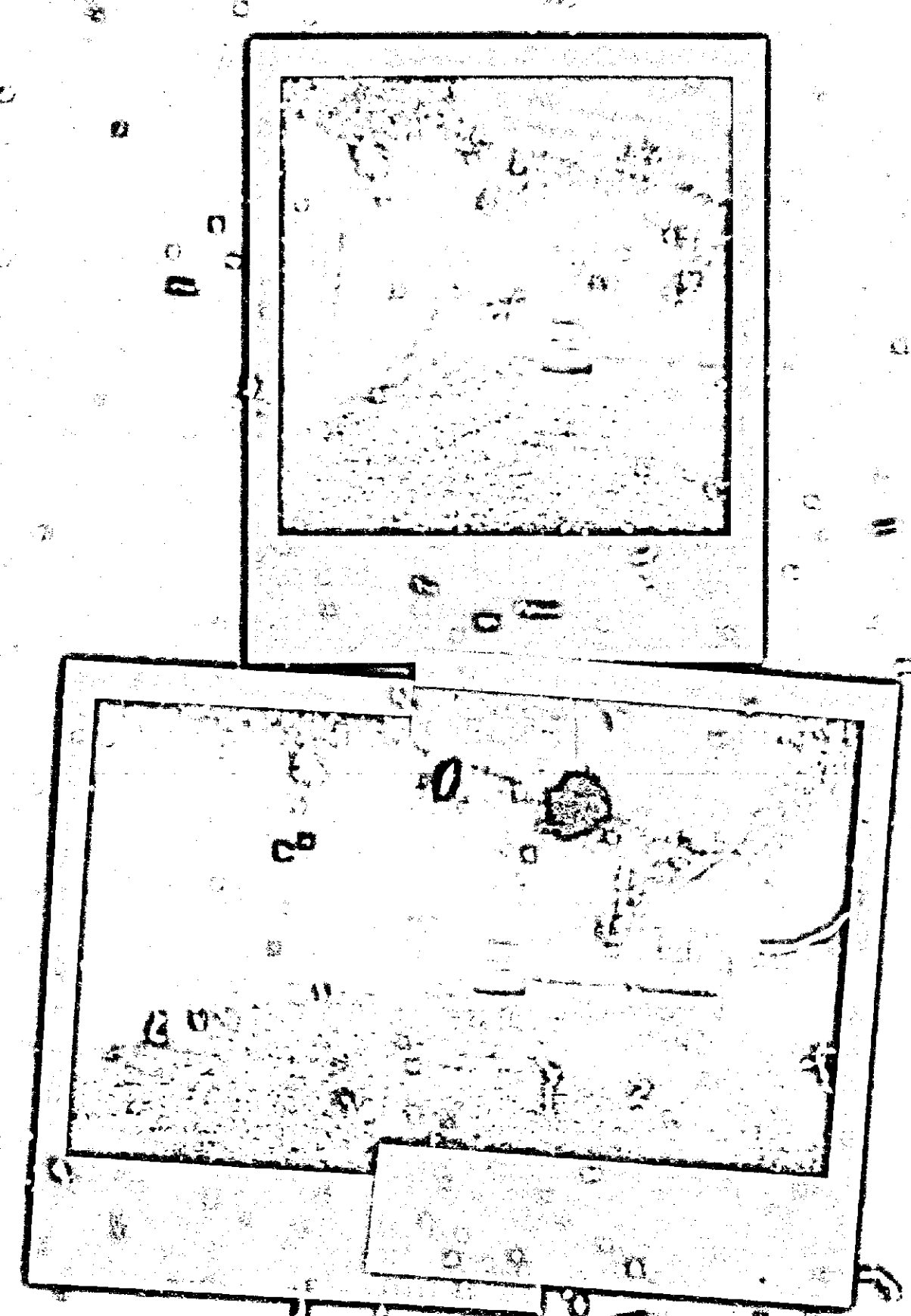
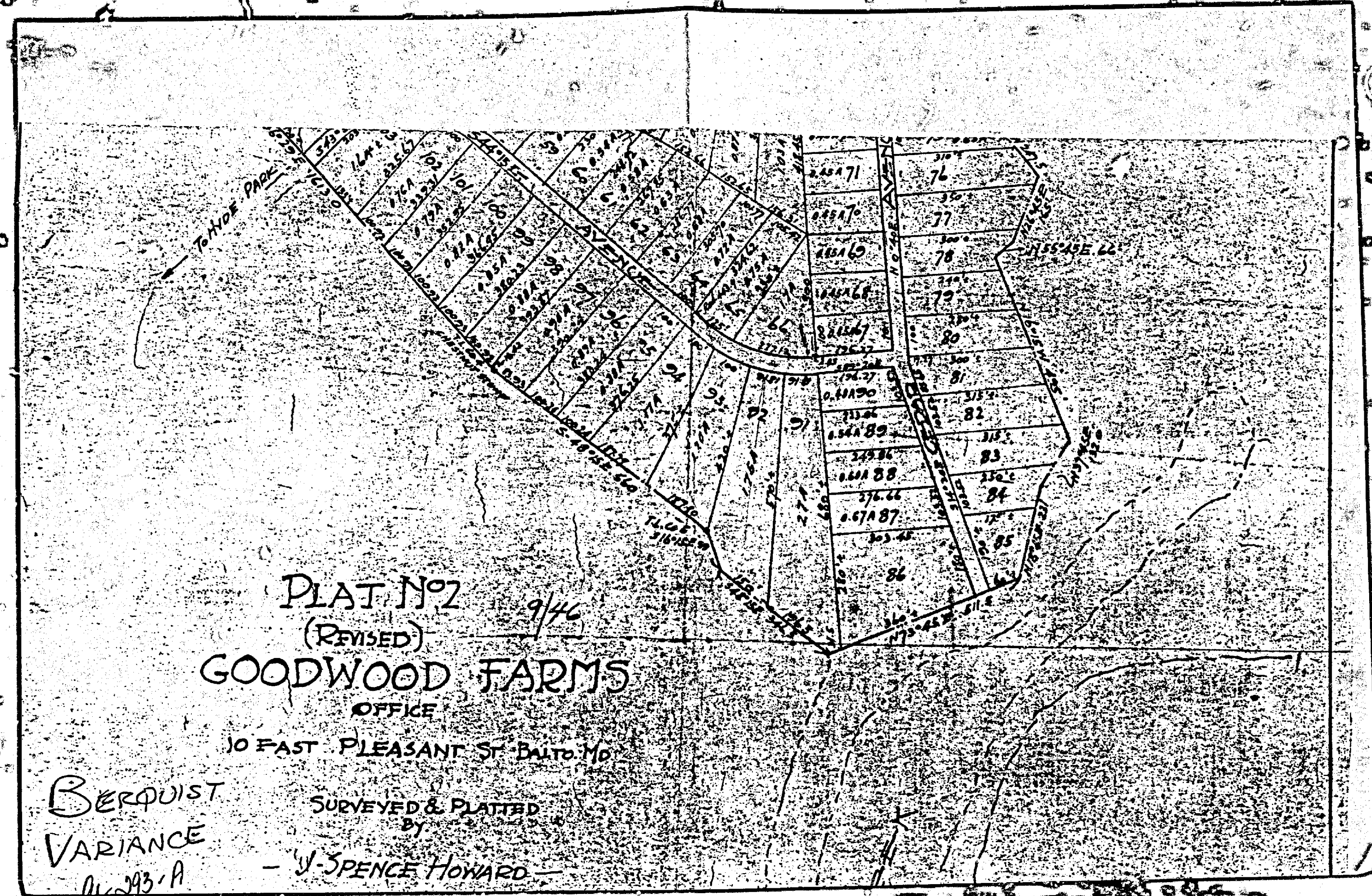
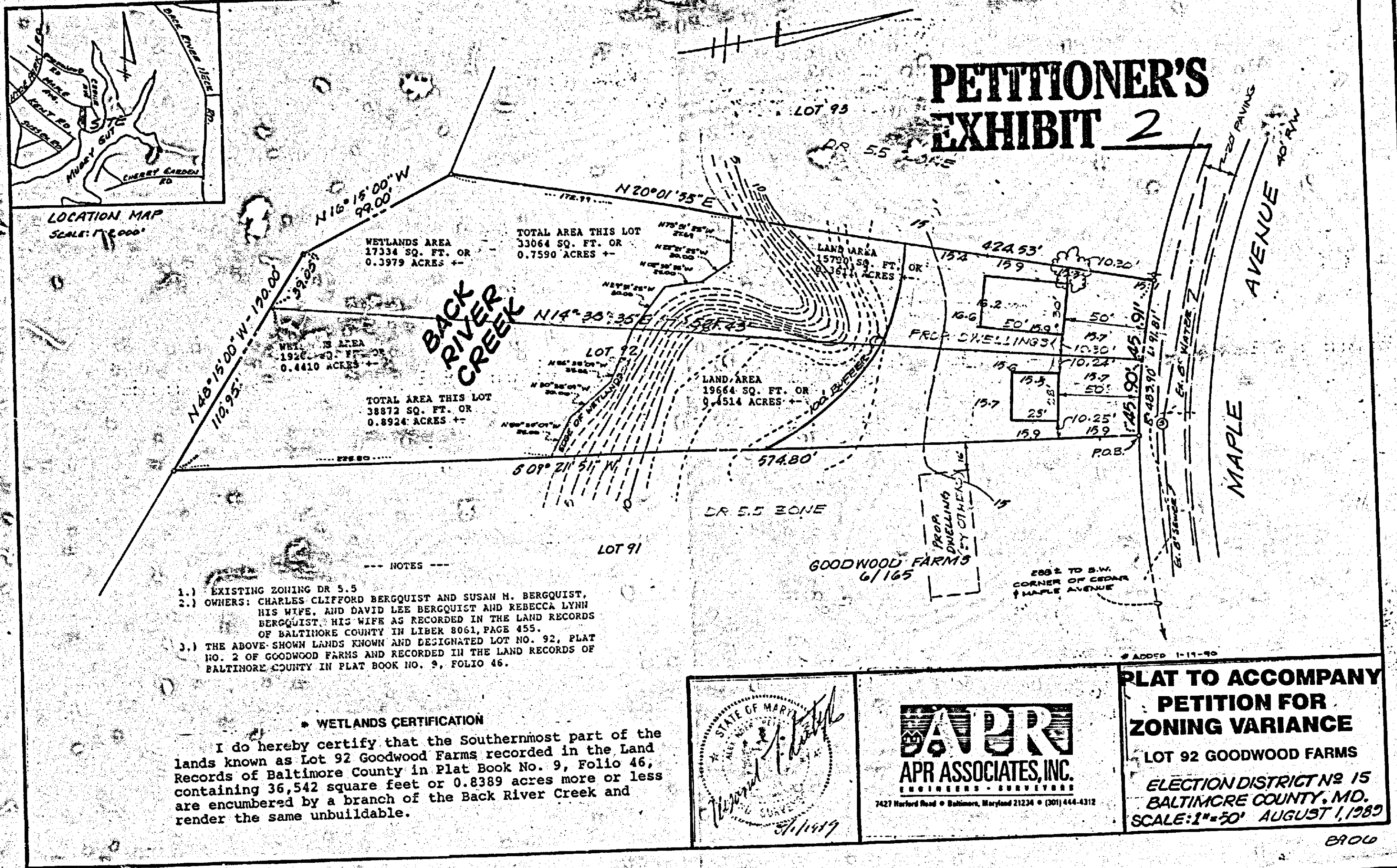
By: John R. Alexander
Planner

JRA:jat
cc: File



1988 COMPREHENSIVE ZONING MAP

BALTIMORE COUNTY, MD.





PLAT No. 945
(REVISED)
GOODWOOD FARMS
OFFICE

10 EAST PLEASANT ST. Bldg. No.

REQUEST
SURVEYED & PLATTED
BY

VARIANCE
— W. SPENCE HOWARD —
CIVIL & CONSULTING ENGR. Bldg. No. 12
Scale 1" = 200 FT. Nov. 1923

B. A. C. H.